

**Minutes
BOARD OF ADJUSTMENT
FEBRUARY 27, 2008**

The study session of the Board of Adjustment began at 5:30 p.m., in the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Joe Arredondo
Slade Lawson
Jon Gillan
Dr. Adhikari
Dave Maza
Matt Taillon
Jeff Winter

Steve Abrahamson, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Jeff Tamulevich, Code Compliance Administrator
Alan Como, Planner II

Absent:

Wallis Stemm

There were 6 citizens at the pre-session.

The Study Session adjourned at 6:59 p.m.

Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Joe Arredondo
Slade Lawson
Jon Gillan
Dr. Adhikari
Dave Maza
Matt Taillon
Jeff Winter

Steve Abrahamson, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Alan Como, Planner II

Absent:

Wallis Stemm

Number of Interested Citizens Present: 6

Hearing convened at 6:00 p.m. and was called to order by Chairman Arredondo.

Chairman Arredondo noted that the case to review the possible revocation of the use permit due to non-compliance with Condition of Approval No. 4 for Chronic Audio (PL070002/ZUP07006) has been withdrawn by staff as the applicant had met with staff and satisfactorily meet the requirements of the assigned conditions of approval.

On a motion by Dr. Adhikari, seconded by Dave Maza, the Board by a vote of 5-0 approved the Board of Adjustment minutes for January 23, 2008.

(Matt Taillon and Jeff Winter abstained from this vote as they were not in attendance at the January 23, 2008 Board of Adjustment hearing.)

THE BOARD DISCUSSED THE FOLLOWING CASES:

Appeal of the December 4, 2007 Hearing Officer's decision to deny the request by the **LEWIS PROPERTY (PL070403)** (Joseph Lewis, applicant/property owner) located at 241 East 15th Street in the R1-6, Single Family Residential District for:

- VRA07003 (VAR07024)** Variance to reduce the front yard setback from twenty (20) feet to ten (10) feet four (4) inches.
- VRA08001 (VAR07025)** Variance to reduce the required driveway from twenty (20) feet to ten (10) feet four (4) inches.

Mr. Joseph Lewis was present to represent this case.

Shawn Daffara, staff planner, gave a brief overview of the case.

Jon Gillan asked to be rescused from this case due to a conflict of interest.

Mr. Lewis requested that this case be continued to the next scheduled Board of Adjustment hearing (March 26, 2008) due to a short Board.

No motion was required and the case has been continued to the March 26, 2008 Board of Adjustment.

Appeal of the February 5, 2008 Hearing Officer's decision to deny the request by the **KERBER RESIDENCE (PL070497)** (Gregory Kerber, applicant/property owner) located at 401 East Hermosa Circle in the R1-6, Single Family Residential District for:

- VRA08002(VAR07030)** Variance to reduce the front yard setback from fifteen feet (15') to seven feet (7') for an open structure.
- VRA08003(VAR08002)** Variance to reduce the west side yard setback from five feet (5') to three feet (3') for an open structure.

Mr. & Mrs. Gregory Kerber was present to represent this case.

Alan Como, staff planner, gave a brief overview of this case, noting that the use permit (to park in the front yard setback) had been approved by the Hearing Officer at the February 5, 2008 hearing, but the variances were denied. The requested variances were to enable the applicant to have a carport on his property. The Hearing Officer did not feel that the carport would be compatible with the surrounding neighborhood and he did not feel that there was enough of a special circumstance to recommend approval of the variances. The garage had been converted to living space by a previous owner. Mr. Como noted that staff was recommending approval of these variances.

Mr. Kerber informed the Board that for twenty-three (23) years they had owned and operated two independent pharmacies in the City of Tempe. He closed his business in 2001 and was diagnosed with a degenerative disc disorder that will require a future use of wheelchair and subsequent accessibility to his home. To meet the City requirements and erect an attractive, eye-pleasing car cover, the Kerbers did apply for the above mentioned variances. Mr. Kerber noted that he was providing written support of the neighbors for this project to the Board at this time. He also offered medical x-rays documenting his physical condition. Chairman Arredondo responded that as the Board were not doctors this was not necessary.

Mr. Kerber noted that it was his understanding that there is a fifteen (15) foot limit and in order to adhere to that stipulation, the Kerbers would be required to move the supporting columns of the structure and those dimensions would not provide adequate coverage.

Chairman Arredondo asked the applicant if, based on the plans, the structure would match the house. Mr. Kerber responded that it would.

Mr. Winter noted that the letter of support that Mr. Kerber had presented to the Board was from the neighbor to the east of his home and asked if they had spoken with the other neighbor. Mr. Kerber confirmed that they had, and had also spoken to the other neighbors who lived nearby – all were in support of this request.

Mr. Como noted that staff did have an additional letter of support from another neighbor. In response to a question from Chairman Arredondo, Mr. Como confirmed that staff had received no negative letters or input regarding this request.

Jeff Winter noted that all of the homes in that cul-de-sac did have fifteen (15) to twenty (20) foot setbacks and that this carport would almost be sitting on the sidewalk if erected although he did understand the need for it. He noted that the neighbor to the west would be most affected and that he would not support this request.

MOTION: Dave Maza made a motion to approve the appeal and allow the variances; Jon Gillan seconded the motion.

VOTE: Denied 4 – 3
(Jon Gillan, Matt Taillon, Jeff Winter and Slade Lawson dissented.)

Steve Abrahamson, Planning and Zoning Coordinator, asked that the Board advise the Kerbers of their right to appeal this decision to Superior Court within thirty (30) days of this hearing.

MOTION: Jeff Winter made a motion to adjourn this hearing; Jon Gillan seconded the motion.

VOTE: Approved 7 – 0

The next Board of Adjustment hearing is scheduled for March 26, 2008.

There being no further business the hearing adjourned at 7:26 p.m.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson
Planning & Zoning Coordinator

SA:dm